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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------|-------------|-----------------------|-------------------------|------------------|
| 10/659,125 | 09/10/2003 | Kenneth Paul Blackmon | APIP-1084 (COS 832 Div) | 3541 |
| 7590 | 06/03/2005 | | EXAMINER | |
| Fina Technology, Inc. | | | CHOI, LING SIU | |
| PO Box 674412 | | | ART UNIT | PAPER NUMBER |
| Houston, TX 77267-4412 | | | 1713 | |

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,125

Applicant(s)

BLACKMON ET AL.

Examiner

Ling-Siu Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/23/03 & 9/10/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This Application is a Division of US Application No. 10/044,886, filed November 1, 2002, now US Patent No. 6,657,025. Claims 1-8 are now pending, wherein claims 1-6 are drawn to a polypropylene and claims 7-8 are drawn to an article or a material.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Morini et al. (EP 0 622 380 A1).

Morini et al. disclose a homopolymer of propylene, which has MFR of 1500 g/10 min and xylene insoluble of 97.2% (Example 2). Morini et al. further disclose “[t]he present invention concerns crystalline propylene polymers having MFR (Melt Flow Rate according to ASTM D 1238L) ranging from 600 to 2000 g/10 min” (page 2, lines 1-3). Thus, the present claims are anticipated by the disclosure of Morini et al.

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Claim Rejections - 35 USC § 102/103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8 are rejected under 35 U.S.C. 102 (b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Morini et al. (Wo 99/57160).

Morini et al. disclose a polypropylene having xylene insoluble of 27.2 (Example 8) or 97.0 (Example 10), which are obtained in the presence of a Ziegler-Natta catalyst system comprising (A) a catalyst component containing Mg, Ti, halogen, and at least two internal electron donors which are ether containing at least two ether groups and ester containing mono or polycarboxylic acid, (B) an alkylaluminum compound, and optionally, (C) an external electron donor (abstract; claims 1-3 and 9). However, Morini et al. are silent on the melt flow of the resulting polypropylene. In view of the presence

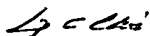
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of hydrogen and the substantial identical catalyst as one used in the present invention to be used in the disclosure of Morini et al., the polypropylene would possess the claimed melt flow rate. Since the PTO does not have proper means to conduct experiments, the burden of proof is now shifted to applicants to show otherwise. **In re Best**, 562 F.2d 1252, 195 USPQ 430 (CCPA 1977); **In re Fitzgerald**, 205 USPQ 594 (CCPA 1980).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reach on 571-272-1114.



**LING-SUI CHOI
PRIMARY EXAMINER**

March 25, 2005